

Mr. V. K. Aravindaksha Menon (Chief Engineer):

(എ) മുള്ളർ കായൽറോഡിലുള്ള കഴകം അടച്ചുകൊണ്ട് കൃഷിക്ക് നാശം വന്നിട്ടുണ്ടെന്നും മറ്റും കാണിച്ചുകൊണ്ടുള്ള ഹർജികൾ ഗവണ്മെന്റിനു കിട്ടിയിട്ടുണ്ട്.

(ബി) ഉവ്വ്. ഗവണ്മെന്റിൽനിന്നും അനേകപ്പണങ്ങൾ നടത്തുകയുണ്ടായി. ഹർജി കളിൽ പറഞ്ഞിരുന്നതുപോലെ കഴകം അടച്ചുകൊണ്ടല്ല—അസാധാരണമായി അന്നുണ്ടായ അതിവഷംനിമിത്തമാണ് വയലുകൾ മുങ്ങിയതെന്നു മനസ്സിലാക്കി.

M. L. C. QUARTERS

152. Mr. V. J. Mathai (Planters): Will Government be pleased to state.—

- (a) are there any rules regarding the M. L. C.'s Quarters;
- (b) who can all stay there;
- (c) have the M. L. Cs. any rights there and if so, what are they;
- (d) can any officer grant exemption from the rules, and if so, who is he;
- (e) is it a fact that in January last an M. L. C. was asked to quit the M. L. C.'s Quarters to give room to certain Sepoys; if so, on whose orders?

Mr. V. K. Aravindaksha Menon (Chief Engineer): (a) There are no special rules.

(b) When the building is not required by the Members of the Legislative Council it is used as Staff Quarters also.

(c) Preference is given to the M. L. Cs. for the occupation of the building and use of linen and crockery.

(d) No answer is necessary in view of the answer to (a).

(e) The quarters were arranged to be vacated to accommodate a Recruiting Officer and his party as it was reported to be occupied by private party at the time. But as soon as it was known that an M.L.C., Mr. V. J. Mathai, also was staying there at the time, instructions were immediately issued not to disturb him and he continued to stay.

GRANTING OF BAIL IN CRIMINAL COURTS

153. Mr. K. Narayana Menon (Mulakunnathukavu): Will Government be pleased to state.—

(a) whether they are aware of the practice now obtaining in the Criminal Courts of the presiding officer seeking the permission of the charge officer before granting bail to the accused;

(b) if they are aware, will it please the Government to state whether this practice has the sanction or orders of Government in any form;

(c) whether they have issued any advice or instruction on this matter;

(d) do Government like to continue this or to stop this practice?

Mr. M. Sivarama Menon (Advocate-General): (a) Under Rule 130A of the Defence of India Rules, the prosecution has to be given an opportunity to oppose applications for bail in cases falling under the Defence of India Rules and the orders issued thereunder. In other cases, the provisions of the Criminal Procedure Code are applicable in regard to bail applications. The permission of the charge officer is not necessary in any case. Government are not aware of the prevalence of any practice by which the criminal courts seek the permission of the charge officers before granting bail to accused persons.

(b) Does not arise.

(c) No. The judiciary is independent of the executive.

(d) In view of the answer above, this question does not call for any answer.

Mr. P. Kumaran Ezhuthassan (Vadakkancheri): In view of what is suggested in this question and in view of what has been explained at the time of the motion yesterday will the Government be pleased to kindly look into the matter, though your rules don't want this to be done, and if any such thing exists in the interests of the accused will that be modified.

Mr. M. Sivarama Menon (Advocate-General): I do not think that any such practice can exist. No law can say that it is only with the permission of the prosecutor that an accused can be released on bail. I think the whole misconception arose on account of the word "permission". Under rule 138 of the Defence of India Rules the position is reversed. Under the Criminal Procedure Code you will find that the burden is upon the prosecution to show that the accused is prima-facie guilty. But under rule 138 the burden is upon the accused. No permission is necessary. I do not think that any court will seek the permission of the prosecution because that will be really abusing the functions of the court.